[Crim. No. 1974. In Bank.—March 24, 1916.]

THE PEOPLE, Respondent, v. T. F. RATLEDGE, Appellant.

MEDICAL PRACTICE ACT—INFORMATION—CHARGE OF SINGLE OFFENSE.—An information charging "the crime of practicing medicine without a certificate from the medical board," followed by the averment that the crime was "committed as follows: That the said T. F. Ratledge . . . , did willfully and unlawfully practice, attempt to practice, and advertise and hold himself out as practicing a system and mode of treating the sick and afflicted in the state of California, without then and there having a valid, unrevoked certificate authorizing him to practice a system or mode of treating the sick and afflicted in this state from the Board of Medical Examiners of the State of California," sufficiently charges a violation of section 17 of the Medical Practice Act, and is not open to the criticism that it charges many offenses because any one of the acts or omissions averred and conjunctively pleaded would suffice as the basis of an information.

ID.—EVIDENCE AS TO "TREATMENT"—CONCLUSION OF WITNESS.—On the trial for such offense, the testimony of witnesses that they had received "treatments" from the defendant was properly admitted. Such testimony was not an unwarranted conclusion of the witness that certain acts constitute a "treatment."

ID.—EVIDENCE OF PRIOR OFFENSE—INTENT AND MOTIVE—REMOTENESS. Evidence of occurrences upon the occasion of a visit of a witness to the defendant's office nearly six months before the time set forth in the information, was competent as tending to show the intent and motive of the defendant in the commission of the acts charged in the information, and was not too remote.

ID.—PRACTICING WITHOUT LICENSE—EVIDENCE OF WANT OF EXAMINATIONS BY BOARD OF MEDICAL EXAMINERS.—The only question with which the court was concerned on such trial was whether or not the defendant was practicing without a license, and evidence tending to show that the state board of medical examiners held no examinations for practitioners such as the defendant is properly excluded.

ID.—DRUGLESS HEALERS—REASONABLENESS OF ACT—EXTENT OF EXAMINATIONS.—The requirement of the act that such subjects as histology, elementary chemistry, toxicology, physiology, elementary bacteriology, and pathology shall be included in the examinations to be taken by applicants for certificates to practice as drugless healers, does not render the act unreasonable as to them.

ID.—LEGISLATIVE DISCRETION—NECESSARY SCIENTIFIC EDUCATION.—It is the duty of the legislature to determine the amount and qual-

ity of scientific education necessary for the individual to possess before he may hold himself out to practice the healing art. Unless the legislative conclusion upon that subject is obviously unfair, the courts will not interfere with the exercise of its discretion.

APPEAL from a judgment of the Superior Court of Los Angeles County. Frank R. Willis, Judge.

The facts are stated in the opinion of the court.

Ingall W. Bull, for Appellant.

U. S. Webb, Attorney-General, Robert M. Clarke, Deputy Attorney-General, and Ray E. Nimmo, for Respondent.

MELVIN, J.—The main questions involved in the appeal herein from the judgment are the same as those which arose in the appeals in *People* v. *Jordan, ante,* p. 391, [156 Pac. 451]. Some exceptions appearing in the record on this appeal which are not discussed in the opinion in that case we will here briefly consider them.

The information is attacked upon the ground that it charges "the crime of practicing medicine without a certificate from the Medical Board," the contention being that no such crime is denounced by the law. It is true that the statute does not contain the quoted words but clearly they are used merely for purposes of general description of the offense as they are followed by the averment that the crime was "committed as follows: That the said T. F. Ratledge on the 30th day of October, 1914, at, and in the County of Los Angeles, State of California, did willfully, and unlawfully practice, attempt to practice and advertise and hold himself out as practicing a system and mode of treating the sick and afflicted in the state of California, without then and there having a valid, unrevoked certificate authorizing him to practice a system or mode of treating the sick and afflicted in this state from the Board of Medical Examiners of the State of California." This sufficiently charges a violation of section 17 of the Medical Practice Act, [Stats. 1913, p. 734], and is not open to the criticism that it seeks to impute many offenses to defendant because any one of the acts or omissions averred and conjunctively pleaded would suffice as the basis of an information. (*Peo-*

ple v. *Frank*, 28 Cal. 507; *People* v. *Harrold*, 84 Cal. 567, [24 Pac. 106]; *People* v. *Gosset*, 93 Cal. 641, [29 Pac. 246]; *People* v. *Gusti*, 113 Cal. 177, [45 Pac. 263]; *Commonwealth* v. *Eaton*, 15 Pick. (Mass.) 273.) This information does not fall within the rule declared in *People* v. *Plath*, 166 Cal. 227, [135 Pac. 954].

The appellant complains of the court's refusal to strike out parts of certain answers of witnesses who stated that they had received "treatments" from him. It is regarded by him as an unwarranted conclusion of a witness that certain acts constitute a "treatment." The objection is without force. Doubtless the witnesses used the word in its well-understood signification, that is, the application of some supposed curative agency to the person seeking relief. A witness was permitted over defendant's objection to detail the occurrences upon the occasion of a visit by her to his office nearly six months before the time set forth in the information. The objection was upon the usual grounds of incompetency, etc., and that the time was too remote. The evidence was competent as tending to show the intent and motive of the defendant in the commission of the acts charged in the information, and it was not too remote. Courts are allowed a wide discretion with respect to the periods of time covered by such testimony.

The defendant offered to prove that the state board of medical examiners held no examination for chiropractors, but the court sustained objections to questions tending to develop that fact. The proffered proof was properly rejected. The only question with which the court was concerned was whether or not the defendant was practicing without a license. The fairness or unfairness of the board of medical examiners was not a question before the court. If the defendant was unlawfully excluded from examination that was something which he might have remedied by application to a court of equity—but it would be no defense to a charge of practicing without a license.

Other objections are based upon the giving of certain instructions and failure to give others. Without discussing them in detail, we think it sufficient to say that they are devoid of merit. The jury was fully and fairly instructed.

It is stated in one of the briefs of appellant that the learned judge of the trial court was biased because the record dis-

closes the use by him of the following language: "I understand from the evidence in this case that Dr. Ratledge was of the opinion notwithstanding he was repeatedly warned that this was a violation of the law, that—" (we reproduce the quotation as it appears in the brief). Commenting upon this partial quotation the writer of the brief uses the following language:

"There is absolutely not one word of evidence in the record to show that the *defendant had been repeatedly warned* that he was violating the law, hence no evidence on which to predicate such a statement; so it follows, that there were motives, bias, influences or statements other than such as might have been created by anything which occurred at the trial which actuated the trial judge in his actions toward the defendant."

The quotation, wrenched from its context is not properly illustrative of the occurrence and the comment by the writer of the brief was wholly unwarranted. The court's statement was made after the trial when the appellant appeared for sentence. A part of the colloquy was as follows:

"The Court: I understand from the evidence in this case that Dr. Ratledge was of the opinion, notwithstanding he was repeatedly warned that this was a violation of the law, that—I think the transcript in the lower court shows that he courted this arrest in order to have this law tested.

"Mr. Bull: Yes, to determine whether or not that does constitute a violation of the law, the acts which he did. He didn't endeavor to conceal any of the acts which he did, and as your Honor saw in this trial, there was no attempt on our part to conceal the acts which he did, but he did not believe that constituted a violation of the law. It was not any desire to violate the law, but he didn't believe those acts constituted a violation of the law."

The court was speaking of facts disclosed by the record of the preliminary examination—not of facts appearing from the record of the trial in the superior court. Counsel at that time readily conceded the correctness of the court's belief that the defendant was a willing martyr to the cause of securing judicial interpretation of the Medical Practice Act. His willingness now to attribute bias and prejudice to the court, because of the utterance of a conceded truth, and his

attempt to support his contention by a truncated quotation, do not meet with our approval.

All of the other questions of any moment which are raised on this appeal have been answered by the opinions in the case of *People* v. *Jordan* cited above, but because of the earnest insistence of counsel in all of these cases upon one point, perhaps further attention may with profit be given to it. The argument is made that because the law includes such subjects as histology, elementary chemistry, toxicology, physiology, elementary bacteriology, and pathology in the examinations to be taken by applicants for certificates to practice as drugless healers, it is unfair, because these are standard courses of study in the preparation of physicians and surgeons, but are not needed in the art of those who intend to alleviate human suffering by manual and mechanical means only. The answer is that to the legislature is committed the duty of determining the amount and quality of scientific education necessary for the individual to possess before he may hold himself out to practice the healing art. Unless the legislative conclusion upon that subject is obviously unfair we may not interfere, for the scope of the police power is very extensive, and the discretion of the legislature in exercising such power is very broad. It is not for us to substitute our discretion and judgment for those of the legislature, although we may say in passing that the wisdom of some of the requirements for practice mentioned above would strongly appeal to us, even if we did possess a broader power than is given to us. For example, the importance of a knowledge of toxicology will be evident to everyone. Without it the drugless practitioner might apply his manipulations to one suffering from the effects of a poison, and might continue his efforts until time for the successful administration of an antidote had passed. All that we have said in the Jordan case about diagnosis applies to this branch of the discussion. Many years ago this court, speaking through Mr. Chief Justice Wallace, announced the rule that in matters relating to public health the scientific correctness of the legislative body in imposing certain restrictions deemed to be for the public good is, generally speaking, not open to review. (*Johnson* v. *Simonton*, 43 Cal. 242–249.) To be sure in that case there was a collateral attack upon a statute and not a direct one, but we cite the authority to illustrate the unwillingness of

courts to interfere with legislative discretion exercised in the passage of laws pertaining to public health. In *Ex parte Lacey*, 108 Cal. 326–329, [49 Am. St. Rep. 93, 38 L. R. A. 640, 41 Pac. 411], the rule of *Johnson* v. *Simonton* was given application in a proceeding on *habeas corpus* involving a direct assault upon the constitutionality of a law designed for the promotion of public hygiene. The state has the right to specify and lay out a course of study, and to establish a standard of efficiency. In *Ex parte Gerino*, 143 Cal. 412–417, [66 L. R. A. 249, 77 Pac. 166], this court sustained a provision of the medical law requiring that as one of the steps toward securing a certificate to practice medicine and surgery, the applicant must produce a diploma issued by a medical college, the requirements of which should be equal to those prescribed by the Association of American Medical Colleges. In *Ex parte Whitley*, 144 Cal. 167–177, [1 Ann. Cas. 13, 77 Pac. 879], this court approved the Dental Practice Act, which prescribed among other things certain elementary educational qualifications in those seeking certificates to practice dentistry. It was held that the necessity for education, its nature, and its extent depend primarily upon the judgment of the legislature which may not be controlled by the courts, so long as it is reasonably exercised. And it is not necessary that to be within reason a required study must be one pertaining immediately to the branch of the healing art which an applicant for a license wishes to practice. For example, the algebra studied by a dental practitioner in his high-school course may not bear directly upon his practice, but the study of mathematics is undoubtedly one of the means of culture by which his mind is better fitted to cope with professional problems, and to acquire a mastery of stomatology sufficient for its practice by him without danger to the public. Further illustrations we think are not necessary to direct attention to the exercise of the power of legislative bodies in prescribing educational tests which must be met and passed by those seeking to secure licenses to practice medicine and other professions over which the state exercises control. Again let us call attention to the words of Mr. Justice Holmes, quoted in the Jordan case: "The plaintiff in error professes, as we understand it, to help certain ailments by scientific manipulation affecting the nerve centers. It is intelligible therefore that the state should require of him scientific training. . . .

For a general practice science is needed." (*Collins* v. *Texas*, 223 U. S. 288–296, [56 L. Ed. 439, 32 Sup. Ct. Rep. 286].) We conclude that there is nothing unreasonable in the curriculum prescribed by the Medical Practice Act for those wishing to secure licenses to practice the art of drugless healing.

No other questions raised in the briefs require attention. The judgment is affirmed.

Henshaw, J., Sloss, J., Shaw, J., Lawlor, J., and Angellotti, C. J., concurred.

orial City Sheet (II.)

California and the Coast—8 Pages

Times

LOS ANGELES

AY, JULY 18, 1916.—EDITORIAL SECTION.

POPULATION By the Federal Census (1910)—319,198 By the City Directory (1916)—555,485

Y SUGAR ANT IS SOLD.

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ide of the trans- ded to by Attor- arker.

Making Oil History for the West.

Pending War's End.

WEIR HERE ON NEW PROJECTS.

London Oil Magnate Arrives Direct from England.

His Interests Seeking Place in California Sun.

May Purchase Rest of Union Oil Treasury Stock.

Coming practically direct from London, Andrew Weir, eminent English ship owner, oil magnate and capitalist, arrived in Los Angeles yesterday afternoon and went to the Beverly Hills Hotel for an indefinite stay. He was met at the Santa Fe station by W. L. Stewart, president of the Union Oil Company; Alex Sclater, vice-president of the same concern, and J. T. Currie, Mr. Weir's attorney and representative in this city.

This is the first visit of Mr. Weir to Los Angeles in over a year. Two years ago he carried through the deal which led to the securing of an option on some $15,000,000 treasury stock of the Union Oil Company, which option was subsequently cancelled, owing to the outbreak of the European war. While one of the reasons for his present trip is to look over the interests he already holds in the Union Oil Company, and also in General Petroleum, it is clearly understood that Mr. Weir has other new projects which he will carry to completion at the end of the war.

It is known that the interests which Mr. Weir represents have long been anxious to secure a strong foothold in the oil fields of this country, and it will be only a matter of time until they accomplish this. They already have a big interest in the reorganized General Petroleum Company, and a holding of Union Oil stock that runs into several millions. It is believed that they will carry out their original intention of purchasing the remainder of the treasury stock of the Union Oil Company, following the close of the war.

Mr. Weir declined to discuss any phase of the purpose of his visit to Los Angeles yesterday. He will remain here for several weeks, and possibly longer. He will go over thoroughly during his stay the situation of the General Petroleum Company, which is now looking forward to a bright future.

En route to Los Angeles from London Mr. Weir stopped over a few days in New York, where he held some important conferences with Wall-street financiers. He has been exceedingly successful in the matter of supplying vessels for war transport use, and has consequently been very busily occupied abroad.

SNAKES COME, CLERK GOES.

The Mayor's Secretary Makes Plenty of Room for Cageful of Reptiles.

Mayor Sebastian was minus a secretary yesterday afternoon, but he had a neat wooden cage in his office in which reposed and rattled a big garter snake, a gopher snake and a rattlesnake. The reptiles were brought in from the Malibu camp, where the Mayor has been staying over Sunday.

When the Mayor informed Secretary MacWilliams that the cage was on its way with its content of reptiles, his secretary said that, if the snakes came, he would take a vacation.

"I guess it's a bit of the old Adam in me, but when snakes come in, I get out," said Dr. MacWilliams, as he grabbed his hat and left for the afternoon.

Later in the day the snakes were turned over to the park department, and the Mayor's secretary returned.

Hero.

FROM JAIL TO BANQUET.

Friends and Associates of Dr. T. F. Ratledge Show Appreciation of "Martyrdom" in the Cause of Medical Freedom Upon His Release.

Dr. T. F. Ratledge, chiropracter, who finished serving a sentence of ninety days in the County Jail at midnight Sunday night, was met by his wife and 3-year-old son, and a number of his associates and friends when he stepped out of the jail. Dr. Ratledge was found guilty and sentenced for practicing medicine without a State license.

The chiropracter has represented himself a martyr to the cause of his profession, and yesterday declared he would immediately resume his work no matter how long a prison sentence it meant for him. "I belong to a class of revolutionists in the cure of disease," said Dr. Ratledge, "and I presume that like all persons who start something new, I must bear a portion of the brunt of criticism and difficulty that arises."

The doctor was hurried from jail to a banquet at Christopher's on Broadway, held in his honor. This evening he will speak at one of the local downtown theaters.